



DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES

Policy No.: DOC 4.7.1	Subject: MEDICAL PAROLE
Chapter 4: FACILITY / PROGRAM SERVICES	Page 1 of 6
Section 7: Releases / Placement	Revision Date: Jan. 5, 1998
Signature: /s/ by Director Rick Day 1/5/98	Effective Date: Mar. 11, 1996

I. POLICY:

It is the policy of the Department of Corrections that selected offenders, housed in correctional facilities or programs, may be considered for medical parole. This policy, and the Montana Codes Annotated specifically preclude persons under sentence of death from eligibility for medical parole.

II. AUTHORITY:

53-1-203, MCA. Powers and Duties of the Department

46-23-210, MCA. Medical Parole

Title 37, Chapter 3, MCA. Professions and Occupations, Medicine, Licensing

III. DEFINITIONS:

Medical Parolee means an offender who has been released on medical parole to the community supervision of the Department, by the Board of Pardons and Parole, after a licensed physician has determined that the person suffers from an incapacitating physical condition, disease, or syndrome and the Board of Pardons and Parole has determined that such condition renders the person highly unlikely to present a clear and present danger to public safety.

Medical Parole Candidate (Parole Candidate) means an offender placed in a correctional facility or program for whom the status of medical parole is under consideration.

Division Administrator means the Administrator of the Community Corrections Division of the Department of Corrections.

Board means the Board of Pardons and Parole.

Department means the Department of Corrections.

IPPO means Institutional Probation and Parole Officer.

IV. PROCEDURES:

Consideration of medical parole will be based upon a medical diagnosis that the offender suffers from an incapacitating physical condition, disease, or syndrome; a description of the disease; the offender's incapacity; and a prognosis addressing the offender's likelihood of recovery. The Board may not grant medical parole unless it finds that the incapacitating condition, disease or syndrome renders the offender highly unlikely to present a clear and present danger to public safety.

A. Request for Medical Parole

Medical parole may be requested by the Board, the Department, the offender, the offender's parent, grandparent, child, sibling or a recognized representative. The request must be made in writing to the Warden/Superintendent of the correctional facility where the offender is incarcerated, or to the Division Administrator if the offender is residing in a community corrections program. The written request must include:

1. The reasons for the requested medical parole.
2. The relationship of the parole candidate to the requesting party (if the request is not from the offender).
3. The name, address and telephone number of the proposed individual or facility which has agreed to provide care to the parole candidate.
4. The name, address and telephone number of the physician who has agreed to provide medical care to the parole candidate while on medical parole.
5. A statement documenting the parole candidate's ability to pay for residential care and on-going medical care.
6. Specific travel arrangements for transporting the medical parolee to the caretaking person or facility.
7. A statement of the requesting party's willingness to cooperate with the Board and the Department in all matters relating to the status of the medical parolee.

B. Medical Documentation

Attached to the Request for Medical Parole must be written documentation of a thorough medical examination conducted by a physician licensed to practice medicine under Title 37 Montana Codes Annotated. The written diagnosis resulting from this examination must include:

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1. A determination that the parole candidate suffers from an incapacitating physical condition, disease or syndrome.
2. A description of the physical condition, disease or syndrome, and a detailed description of the offender's physical incapacity.
3. A prognosis regarding the offender's likelihood of recovery from the incapacitating physical condition, disease or syndrome and the extent of any potential recovery.

C. Medical Examinations/Diagnosis

1. The parole candidate, or another person designated in statute to make a request on behalf of the parole candidate, may submit a written request for a medical diagnosis to the Warden, Superintendent or Division Administrator. Copies of the request must be submitted to the Department medical coordinator for review and comment.
2. The medical examination and diagnosis will typically be completed by a physician named by the Department. When the Department makes the request for a medical examination and names the physician, the Department will assume the expense of the examination and the diagnosis.
3. In the event that the parole candidate or designee requests a medical examination by a physician of the candidate's choice, payment will be the responsibility of the candidate and/or the requesting party.
4. The Department reserves the right to review, and accept or deny the medical diagnosis, regardless of who designates the physician, before the Board considers granting a medical parole.

D. Location of Placement

1. As a condition of medical parole, placement of a parole candidate must be established at a location acceptable to the Department prior to the offender's release on medical parole.
2. Placement may be in a hospital, nursing home, family home, or other location acceptable to the Department.

E. Approval/Disapproval of a Request for Medical Parole

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1. The final decision to grant, deny or revoke a medical parole is within the discretion of the Board. Nothing herein shall be construed as creating a right to medical parole, or otherwise reducing the Board's discretion as provided for by statute.
2. The Department reserves the right to make decisions relative to the eligibility of a parole candidate to be considered by the Board for Medical Parole. Eligibility decisions by the Department will be made based on the medical diagnosis and examination; however, the Department will take into consideration the potential risk that the parole candidate may pose to the safety and security of the community. Eligibility decisions of the Department are not appealable.
3. When the medical examination and diagnosis is complete, the party requesting the medical parole will attach written documentation to the Request for Medical Parole and submit that documentation to the Warden, Superintendent, or the Division Administrator.
4. The Warden, Superintendent or Division Administrator will consult with the medical coordinator to determine whether further medical examination is appropriate and necessary.
5. If the Warden, Superintendent, or the Division Administrator denies the request, the denying party will provide the individual that requested the medical parole with written reasons for the disapproval.
6. If the request is approved on behalf of the Department, it will be forwarded with a letter of approval to the Institutional Probation and Parole Officer (IPPO) who is assigned to the parole candidate.
7. The IPPO, in consultation with correctional facility staff, will prepare, and/or request preparation, of all pre-parole documents required by the Board. Attachments to the request to the Board will include the Request for Medical Parole, medical diagnosis, letter of approval from the Department representative, and recommended conditions for parole. The IPPO will be responsible for forwarding all pre-parole documents to the Board.
8. The Board will schedule a hearing in a timely manner and approve or disapprove the medical parole request. All decisions of the Board must be in writing and signed by at least two Board members and delivered to the parole candidate within thirty days from the date of the hearing. If the medical parole is approved, the IPPO shall provide the parolee a waiver of release of medical information. The parolee, or a recognized representative, must sign the waiver prior to

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release from the facility or program to medical parole. Copies of the waiver will be provided to the Department, the Board and the care-giver in the community.

9. After the Board has approved the medical parole, the Probation and Parole Bureau will investigate the medical parole plan and send the findings to the Board.
10. When a medical parole plan is approved by the Board, the parolee or a recognized representative will sign the standard conditions of parole, as well as any conditions set by the Board which are specific to the parolee's circumstances. Normal parole sign up procedures will be followed by the parolee, the Board and the supervising Probation and Parole Officer.
11. If the medical parole plan is denied, the plan will be returned to the IPPO to determine if concerns that the Board has identified can be addressed and if the plan can be resubmitted for further consideration by the Board at a future date.
12. An applicant may not reapply for medical parole consideration for a period of twelve months unless there has been a documented and substantial change in the offender's physical condition, disease or syndrome. The Board may, on its own motion, consider exceptions to this requirement in the event that special circumstances warrant reconsideration.
13. Decisions by the Board on any request for Medical Parole are not reviewable.

F. Conditions of Medical Parole

The Board may require additional conditions for the medical parolee, including but not limited to periodic medical examinations and updated prognoses of the parolee. Periodic medical examinations and updates to the original diagnosis will be at the expense of the parolee. If such examinations and prognoses are required by the Board, copies of the results shall be submitted to the Board and the Department by the examining physician. The parolee must sign a release of information allowing the Department and the Board to be provided with information on all medical treatment received during the time of medical parole.

G. Consideration for Non-Medical Parole

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1. When a medical parolee is 60 days from the regular parole eligibility date, the Records Supervisor responsible for maintaining records for the parolee will inform the Board and the supervising officer of the date of non-medical parole eligibility.
2. Upon notification that the medical parolee is being considered for non-medical parole status, the supervising probation and parole officer will be responsible for providing the Board with all pre-parole documents, reports, and recommendations.
3. The Board will, within its regular course of business, conduct a hearing to determine whether the parolee should remain on medical parole status or be granted a non-medical parole. The Board will inform all appropriate parties of its decision, in writing, in a timely manner.

H. Violation of Conditions of Medical Parole

1. If it is alleged that the parolee has violated the conditions of medical parole, or that the offender's physical capabilities have improved to the extent that the parolee may pose a threat to public safety, normal procedures for parole revocation may be implemented by the supervising Probation and Parole Officer.
2. Either the Board or the Department may determine that the parolee is likely to pose a danger to public safety. If that determination is made, the Board may revoke the parole and return the offender to the custody of the Department.

V. CLOSING:

Questions concerning this policy should be directed to the Warden/Superintendent, Community Corrections Division Administrator, the Board of Pardons and Parole, or the Director of the Department of Corrections.